

STATE OF INDIANA)
) SS:
COUNTY OF LAKE)

IN THE LAKE CIRCUIT COURT
CAUSE NO. 45C01-0609-PL-00425

STATE OF INDIANA,)
)
Plaintiff,)
)
v.)
)
CARL GASAWAY,)
ALPHA DISTRIBUTING, INC.,)
INDIANA MANAGEMENT, INC., and)
GREAT LAKES FINANCE, INC.,)
)
Defendants.)

AVC NO. 07- 031

Filed in Open Court

OCT 15 2007

Thomas R. Philpott
CLERK LAKE CIRCUIT COURT

ASSURANCE OF VOLUNTARY COMPLIANCE

The State of Indiana, by Attorney General Steve Carter and Deputy Attorney General Matt J. Light, and the Defendants, Carl Gasaway, Alpha Distributing, Inc., Indiana Management, Inc., and Great Lakes Finance, Inc., enter into an Assurance of Voluntary Compliance ("Assurance"), pursuant to Indiana Code § 24-5-0.5-7.

Any violation of the terms of this Assurance constitutes *prima facie* evidence of a deceptive act. This Assurance is entered into without any adjudication of any issue of fact or law, and upon consent of the parties.

The parties agree:

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JURISDICTION

1. This Court has jurisdiction and venue over the subject matter of this action and the parties hereto.

2. The State of Indiana's Complaint states a cause of action pursuant to Indiana's Promotional Gifts and Contests Act, Indiana Code § 24-8-1-1, *et seq.*, and Indiana's Deceptive Consumer Sales Act, Ind. Code § 24-5-0.5-1, *et seq.*

3. The Defendant, Carl Gasaway, at all times relevant to this complaint was an individual engaged in business as a seller of vacuum cleaners and other products at 2091 West 141st Avenue, Crown Point, Indiana, 46307; 13114 Delaware Street, Crown Point, Indiana, 46307; 8004 Tyler Street, Merrillville, Indiana, 46410; 8010 Tyler Street, Merrillville, Indiana, 46410; 7870 Broadway, Merrillville, Indiana, 46410; 207 Hoosier Drive, Suite 6, Angola, Indiana, 46073; or 411 Airport North Office Park, Fort Wayne, Indiana, 46825.

4. The Defendant, Alpha Distributing, Inc., at all times relevant to this complaint was a domestic corporation engaged in business as a retail seller of vacuum cleaners with business locations at 411 Airport North Office Park, Fort Wayne, Indiana, 46825; 7870 Broadway, Merrillville, Indiana, 46410; and 207 Hoosier Drive, Suite 6, Angola, Indiana, 46073.

5. The Defendant, Indiana Management, Inc., at all times relevant to this complaint was a domestic corporation engaged in business as a commercial distributor of vacuum cleaners and at 8010 Tyler Street, Merrillville, Indiana, 46410.

6. The Defendant, Great Lakes Finance, Inc., was a domestic corporation engaged in business as a commercial financing company at 8010 Tyler Street, Merrillville, Indiana, 46410, until it was administratively dissolved by the Secretary of State on September 1, 2005.

7. The terms of this Assurance apply to and are binding upon the Defendants, their employees, agents, representatives, successors, and assigns.

8. The term "prize" shall have the meaning found in Ind. Code § 24-8-2-3, and shall mean a gift, award, or other item distributed in a promotion.

9. The term "promotion" shall have the meaning found in Ind. Code § 24-8-2-5, and shall mean a written notice offering property or a chance to obtain property to a person based on a representation that the person has been awarded or may have been awarded a prize.

10. The Defendants, Carl Gasaway, Alpha Distributing, Inc., Indiana Management, Inc., and Great Lakes Finance, Inc., and their agents, representatives, employees, successors, and assigns agree to permanently refrain from engaging in the following acts and making, causing to be made, or permitting to be made the following representations:

- a. in the course of conducting promotions in Indiana, failing to include all of the items required by Ind. Code §§ 24-8-2-3 through 24-8-3-8 in the promotional notice sent to consumers;
- b. in the course of conducting promotions in Indiana, failing to inform the consumer of the prize, if any, the person will receive before beginning a demonstration, seminar, or sales presentation;
- c. in the course of conducting promotions in Indiana, failing to offer to the consumer a substitute prize pursuant to the terms of Ind. Code § 24-8-5-1(a) if the prize the consumer won is not available;

- d. representing expressly or by implication that a consumer transaction has sponsorship, approval, performance, characteristics, accessories, uses, or benefits it does not have which the Defendants know or should reasonably know it does not have;
- e. representing a consumer transaction involves or does not involve a warranty, a disclaimer of warranties, or other rights, remedies, or obligations, if the representation is false and if the Defendants know or should reasonably know the representation is false; and
- f. representing expressly or by implication the Defendants are able to deliver or complete the subject of the consumer transaction within a stated period of time or a reasonable period of time, when the Defendants know or should reasonably know they cannot.

11. The Defendants shall fully comply with Indiana's Promotional Gifts and Contests Act, Ind. Code § 24-8-1-1, *et seq.*, and Indiana's Deceptive Consumer Sales Act, Ind. Code § 24-5-0.5-1, *et seq.*, in any future solicitation of Indiana consumers and/or consumer transactions in which they engage.

12. Any violation of the terms of this Assurance by the Defendants shall have the same force and effect as a court-ordered injunction issued pursuant to the Deceptive Consumer Sales Act, Ind. Code § 24-5-0.5-4(c), and shall subject the Defendants to all of the remedies and penalties of the Deceptive Consumer Sales Act, including but not limited to Ind. Code § 24-5-0.5-4(f).

13. Defendants shall cooperate with the Office of the Attorney General in the resolution of any future written complaints the Consumer Protection Division receives against the Defendants or any Indiana Tri Star distributors that sell goods on a consignment basis through the Defendants, and the Consumer Protection Division agrees to forward to any such complaints to the Defendant, Carl Gasaway.

14. The Defendants' contract with consumer Ana Gaidar of Lake County, Indiana, is hereby cancelled pursuant to Ind. Code § 24-5-0.5-4(d).

15. Upon execution of this Assurance, the Defendants shall pay the amount of Five Thousand Dollars (\$5,000.00) to the Office of Attorney General's Consumer Protection Fund for use by the Attorney General, at his sole discretion, for consumer restitution and other consumer protection-related purposes.

16. The Defendants shall not represent the Office of the Attorney General approves or endorses the Defendants' past or future business practices, or that execution of this Assurance constitutes such approval or endorsement.

17. The Office of the Attorney General shall file this Assurance with the Circuit Court of Lake County. The Court's approval of this Assurance shall not act as a bar to any private right of action.

CONTINUING JURISDICTION

18. For the purpose of enforcing the provisions of this Assurance, any subsequent Court obtaining jurisdiction over any of the Defendants based upon a complaint alleging a violation of any law that is the subject of this Assurance may take judicial notice of this Assurance and is deemed to be a proper venue for interpretation and enforcement of this agreement. The Defendants waive any objection regarding a Court's jurisdiction to punish for

contempt and agrees to appear upon proper notice of a failure to comply with any of the provisions of this Assurance.

IN WITNESS WHEREOF, the parties have executed this Assurance this 8th day of August, 2007.

STATE OF INDIANA

STEVE CARTER

Indiana Attorney General

by:

Matt J. Light
MATT J. LIGHT
Deputy Attorney General
Attorney No. 25680-53

by:

ALPHA DISTRIBUTING, INC.,
INDIANA MANAGEMENT, INC., and
GREAT LAKES FINANCE, INC.

Carl Gasaway
CARL GASAWAY
Owner, Principal Officer and
Registered Agent

Carl Gasaway
CARL GASAWAY,
individually and doing business as
Alpha Distributing, Inc.,
Indiana Management, Inc., and
Great Lakes Finance, Inc.

Approved:

Geoffrey G. Giorgi
Geoffrey G. Giorgi
Counsel for the Defendants

APPROVED this 15 day of Oct, 2007.

Sharon A. McLaughlin
Judge, Lake Circuit Court

Distribution:

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